IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18/12/2003

Coram

The Honourable Mr. Justice V.S. SIRPURKAR
and
The Honourable Mr. Justice M. THANIKACHALAM

Criminal Appeal No.749 of 2003
and 750 to 752 and 764 to 766 of 2003

1. P. Nedumaran ... Appellant in Crl.A. No.749 of 2003

2. Pavanan Appellant in Crl.A. No.750 of 2003
Appellant in Crl.A. No.766 of 2003
3. Subha Veerapandian Appellant in Crl.A. No.751 of 2003
4. Dr. A. Thayappan Appellant in Crl.A. No.752 of 2003
5. Shahul Hameed Appellant in Crl.A. No.764 of 2003
6. K. Paranthaman Appellant in Crl.A. No.765 of 2003

-Vs-

STATE rep. by
Deputy Superintendent of Police
Q Branch CID Chennai City
Chennai 600 005 ... Respondent in all the appeals

Appeals under Sec.49 of the Prevention of Terrorism Act 2003 read with Sec.439 of Crl.P.C. against the orders passed by the Special Court under the Prevention of Terrorism Act, Poonamallee in Crl.M.P. Nos.26 to 29 of 2003

!For Appellants :: Mr. N. Natarajan, Senior Counsel
Mr. K. Chandru, Senior Counsel
for Mr. Yashod Vardhan

^For Respondents :: Mr. I. Subramanian, Public Prosecutor/
Senior Counsel

:COMMON JUDGMENT

(Delivered by V.S. SIRPURKAR, J.)

This judgment shall dispose of the following criminal appeals, viz. Crl.A. Nos.749 to 752 and 764 TO 765 of 2003.

2. Criminal Appeal Nos.749 to 752 and 764 of 2003 have been filed by Pala Nedumaran, Pavanan, Subha Veerapandian, Thayappan and Shahul Hameed respectively. Criminal Appeal No.765 of 2003 has been filed by K. Paranthaman. All these accused persons are facing prosecution for the offences under Sec.21(1)(a), 21(2) and 21(3) of Prevention of Terrorism Act, 2002 (in short 'POTA'), which offences are punishable under Sec.21(4) POTA and Sec.10 of the Unlawful Activities (Prevention) Act, 1967 and Sec.124(A), 153(A)1(A) of Indian Penal Code (IPC). The gravamen of the charge is that all these accused persons are sympathisers/followers of an organisaition called Liberation Tigers of Tamil Eelam (LTTE), which organisation is a banned organisation under Unlawful Activities (Prevention) Act and is also a scheduled organisation under Sec.18 of POTA. There is no dispute regarding the fact that LTTE is thus a banned organisation and exhorting support for which is an offence under Sec.21 of POTA.

3. It seems that a charge-sheet came to be filed in this matter on 20-1-2003 from which it is seen that the accused persons or most of them have been arrested on the basis of a complaint made by the Inspector of Police, Central Crime Branch, Chennai City on 14-4-2002 wherein it was complained that on 13-4-2002 evening, there was a indoor meeting organised by a Tamil Publication called "Tamil Muzakkam', having its office at No.29 Dr. Gurusamy Road, Chetpet, Chennai. It was alleged therein that the said indoor meeting took place insite the Anand Theatre, 689 Anna Salai, Chennai between 6.00 pm and 9.25 pm on the topic 'An interview with the renowned Liberation Tigers Chief - an evaluation'. It was alleged in the complaint that the said meeting was organised to discuss about the press meet held in Sri Lanka by the LTTE leaders namely Thiru Prabhakaran and Thiru Anton Balasingham and that it was conducted under the presidentship of Pala Nedumaran (A-1) and the rest of the accused, viz. Pavanan (A-2), Subha Veerapandian (A-3) and Thayappan (A-4) and others also participated in the said indoor meeting and addressed the gathering encouraging the support for the LTTE. It was alleged that all these accused persons belonged to a registered political party called 'Tamilar Desiya Iyakkam'. It was suggested in the charge-sheet further that Shahul Hameed (A-5), appellant in Criminal Appeal No.764 of 2003, is the proprietor of a Tamil publication called 'Tamil Muzakkam' and that the other accused persons are the active volunteers and sympathisers of said Tamilar Desiya Iyakkam.

4. It is then the prosecution case in this charge-sheet that LTTE was included as an organisation covered under Unlawful Activities (Prevention) Act, 1967 and that the Tribunal formed under that Act had confirmed the notification dated 14-5-1992 issued by the Government of India, declaring LTTE as an unlawful association under the said Act. A reference was made to the observations of the Tribunal in that order to 'Tamilar Desiya Iyakkam' being a radical chauvinist organisation indulging in terrorizing and dangerous activities with the object fo cession and disrupting the sovereignty and territorial integrity of India. It is then contended that on 14-5-1994, the said organisation LTTE was declared as an unlawful association. It was also alleged that A-1 Pala Nedumaran has authored a biographical account of LTTE leader Kittu under the title 'Kaviyanayakan Kittu' (Epic Hero Kuttu) and that 298 copies of the books were seized when they were about to be sent

overseas and for that purpose a crime was registered against A-1 Pala Nedumaran. It is suggested that the pro-LTTE activities of A-1 Pala Nedumaran are to be found in the judgments of the Tribunal dated 13-11-1996 and 13-11-1998 also. Then there is a reference made again to the LTTE being declared as an unlawful association. It is then pointed out that there was a reference in the Tribunal's order dated 13-11-1998 that A-2 Suba. Veerapandiayn had delivered a speech while inagurating the branch of 'Tamilar Desiya Iyakkam' at Tambaram, Chennai and had asserted that his party would support the cause of LTTE and that in a further meeting held on 28-9-1996, he condemned the killing of Tamils in Sri Lanka and once again asserted that Tamil Eelam would prosper soon and appealed to the people to support LTTE and that in a public meeting held on 22-7-1999, he accused the Designated Judge for threatening those who speak in support of Tamil Eelam would be awarded with a capital punishment and further he had said that even if hanging rope is shown, the support to Tamil Eelam would continue.

5. The charge-sheet further mentions that the declaration of LTTE as an unlawful association was extended from time to time by the Government of India on the ground that LTTE was an unlawful association as it was having sympathisers and supporters in the State of Tamil Nadu like the accused persons herein. Again a reference is made to the judgments of the Tribunal during the years 1992, 1994, 1998 and 20 00 whereby LTTE was declared as an unlawful association for two years and it was ultimately asserted that the above materials established the inclination and guilty intention of A-1 Pala Nedumaran, A-2 Suba. Veerapandiyan as well as the members and sympathisers like A-3 Pavanan @ Pudukottai R. Pavanan, A-4 Thayappan and A-5 Shahul Hameed of ' Tamilar Desiya Iyakkam'. Then a reference is made that the LTTE has been declared as a terrorist organisation under entry 21 of the schedule appended to POTA.

6. It is then that a reference is made to a meeting held on 13-4-2002, to which we have already made a reference. The charge-sheet further goes on to state that A-1 Pala Nedumaran delivered an objectionable speech and the excerpts of the speech is given in Tamil, the English translation of which is as under:

""We have been continuously raising our voice in Tamil Nadu against the Sinhala racist attack on our brothers and sisters and supporting the Liberation Tigers. We need not fear for anyone. Without understanding what is happening in the country, if anyone thinks that by giving small, small pinpricks the movement can be suppressed, respected gentlemen, you do not know what is the movement. I warn you today, if the right to speech and expression can be stopped, it can only lead to a disastrous path. It is all right if you do not help the Srilankan Tamils, please do not give them trouble. Prabhakaran is only 47 years old but as a seasoned statesman he is telling that the friendship with India should be again renewed. Today those who are describing Prabhakaran as a terrorist are the ones who will push us back and first garland him when he becomes the leader of Tamil Eelam and visits Tamil soil. If an independent Tamil Eelam is formed, it will only be a friendly country to India. Whether the American forces come or their forefathers forces come, the liberation Tigers can tackle them. We should rally behind and stand beside Prabhakaran. This is our duty. Today Prabhakaran appears as

a great leader who comes once in thousand years. The struggle to liberate Eelam soil under his leadership is not a mere struggle, don't forget it will be struggle for bringing dawn in the lives of Tamils living all over the world. It is our life time duty to support the struggle despite facing all kinds of oppression and thus I conclude my speech. "

It is suggested from this that the speech attracts the offences under Sec.21(1)(a) and Sec.21(3) POTA, punishable under Sec.21(4). It is then pointed out that prior to the said indoor meeting, in the first week of April 2002, accused 1 to 4 have gone to the office of Shahul Hameed (A-5) and had discussed with him about the making arrangements for conducting a indoor meeting and accordingly A-1 Pala Nedumaran gave Rs.2,000/- as advance amount towards the expenses for arranging the said meeting and further accused 1 to 4 had explained to A-5 Shahul Hameed about the style and pattern of the pamphlets and wallposters to be printed. It is therefore contended that A-1 Pala Nedumaran had assisted in arranging the said indoor meeting which knew was to support the terrorist organisation LTTE and hence had committed the offence under Sec.21(2) POTA, punishable under Sec.21(4) of the said Act.

7. It is then further suggested in the charge-sheet that A-1 Pala Neduamaran had participated in a public meeting held on 24-8-2001 at Ottanchatiram in Dindigul District, on 26-11-2001 at Pudukottai, on 1 0-2-2002 at Tiruchy, on 31-3-2002 at MTT Hindu College Higher Secondary School Campus at Tirunelveli, on 1-5-2002 at New Washermenpet in Chennai, on 19-5-2002 at Thanjavur Town, on 13-6-2002 in a marriage function at Swamimalai in Thanjavur District and on 15-6-2002 at Tambaram and in all these meetings A-1 Pala Nedumaran addressed encouraging support for LTTE and that this established the guilty intention of A-1 Pala Nedumaran.

8. It is then suggested that the searches and investigations were conducted on 8-8-2002 at the office of 'Tamilar Desiya Iyakkam' as also at the residence of A-1 Pala Neduraman in Chennai city and during the course of search many pro-LTTE literature, photographs of A-1 Pala Neduraman taken while in the company of LTTE leaders Prabhakaran and Mathaiya were seized and also the books written by him encouraging the activities of LTTE.

9. Similarly in the same charge-sheet, the excerpts of the speech delivered by A-2 Suba. Veerapandiyan is given. The English translation thereof is as under:

"You are threatening that POTA will pounce on us, if we talk about Tigers (LTTE). Can you threaten the persons associated with Tigers. It is certain that Tamil Eelam will blossom, whatever the obstacles in its' way. The whole world welcomes the press report of Prabhakaram. It is a life-time disgrace to us that a resolution has been passed in the State Legislature condemning the press report of Prabhakaram. Tigers have nothing to lose. They have nothing to lose except the cyanide capsules. With this, I take leave."

10. Paragraph 14 of the charge-sheet is nothing but the allegations against A-5 Shahul Hameed in more particularly and the four other accused persons for arranging the meeting. Paragraph 15 speaks about the activities of A-2 Suba.Veerapandian that he was a supporter and believed in the philosophy of LTTE or eulogised the deeds of LTTE leader Prabhakaran. It is, therefore, suggested that he had also committed the offence under

Sec.2(F)(1) read with Section 13(1) (b) of Unlawful Activities (Prevention) Act, 1967. Paragraph 16 gives the extracted portion of the objectionable speech given by A-3 Pavanan in the meeting held on 13-4-2002, the English translation of which reads as follows:
"Madam Jayalalithaa, you keep on speaking like this. You are going to see on the Television the blossoming of Tamil Eelam. You keep on talking like this. Television will see the second Tamil Nadu. When the press-meet of Prabhakaran was telecasted, people in Pudukottai had seen it. Crackers were burst at ten places. I too enjoyed the press-meet. Prabhakaran spoke wholly in Tamil. Journalist from Hindu newspaper alone asked about Rajiv Gandhi assassination."

11. Similarly, paragraph 18 speaks about A-3 Pavanan and the meeting which he had attended. In paragraph 19, it is stated that A-3 Pavanan is facing three prosecutions vide Crime Nos.161/96, 27/2002 and 327/2002, all in Pudukottai and Virudhunagar Districts under the provisions of Unlawful Activities (Prevention) Act, Arms Act and Criminal Law (Amendment) Act.

12. The excerpts of the objectionable speech given by A-4 Thayappan is given in paragraph 20 of the charge-sheet. In paragraph 21, there is nothing but the repetition of the earlier charges. Same is the case with paragraphs 23 and 24 which suggests that A-5 Shahul Hameed was facing the prosecution for the offences under Sections 124 (A) and 153(B) IPC and Sec.10 of the Unlawful Activities (Prevention) Act, 1967.

13. Then the charge-sheet has given the draft charges also, being charge Nos.1, 2 and 3. They are as under:
"Charge No.1:
Whereas A1- Pazha.Nedumaran, A2- Suba.Veerapandiyan, A3- Pavanan alias Pudukottai R.Pavanan, A4 - Thayappan and A5 - Shahul Hameed associated themselves with guilty intention as narrated above and have knowingly arranged or assisted in arranging the indoor meeting held on 13.4.2002 between 6 pm and 9.25 pm at Anand theatre situated at No.689, Anna Salai, Thousand Lights, Chennai 600 006, for the purpose of supporting the terrorist organisation namely, the Liberation Tigers of Tamil Eelam. Thereby A1 - Pazha Nedumaran, A2- Suba. Veerapandiyan, A3 - Pavanan alias Pudukottai R.Pavanan, A4- Thayappan and A5- Shahul Hammed, appear to have committed offence under section 21(2) of the Prevention of Terrorism Act, 2002 thereby rendering themselves liable to be punished under section 21(4) of the Prevention of Terrorism Act, 2002.
Charge No.2:
Whereas during the course of the same transaction A1 - Pazha Nedumaran, A2- Suba. Veerapandiyan, A3- Pavanan alias Pudukottai R. Pavanan and A4- Thayappan addressed in the said indoor meeting held on 13.4.2 002 between 6 pm and 9.25 pm at Anand theatre situated at No.689, Anna Salai, Thousand Lights, Chennai 600 006, encouraging support for LTTE which is a terrorist organisation. Thereby, A1 - Pazha Nedumaran, A2- Suba. Veerapandiyan, A3- Pavanan alias Pudukottai R. Pavanan, A4 - Thayappan appear to have committed offence under section 21(3) of the Prevention of Terrorism Act, 2002 , thereby rendering themselves liable to be punished under section 21(4) of the Prevention of Terrorism Act, 2002.
Charge No.3:

Whereas during the course of the same transaction, A1- Pazha Nedumaran addressed in the said indoor meeting held on 13.4.2002 between 6 pm and 9.25 pm at Anand theatre situated at No.689, Anna Salai, Thousand Lights, Chennai 600 006, inviting the support for LTTE, which is a terrorist organisation. Thereby, A1- Pazha. Nedumaran, appears to have committed an offence under section 21(1)(a) of the Prevention of Terrorism Act, 2002, thereby rendering himself liable to be punished under section 21(4) of the Prevention of Terrorism Act, 2002. "

14. It is pointed out that A-1 Pala Nedumaran was arrested on 1-8-2002 and the other accused persons, viz. accused 2, 3 and 4 shortly thereafter on 16-8-2002, 6-9-2002 and 3-10-2002 respectively while A-5 Shahul Hameed was absconding accused. It is now reported that A-5 Shahul Hameed was arrested on 11-3-2003 as he had surrendered himself before the Magistrate.

15. It is on this basis that the charge-sheet is filed. We are now told that the charges have also been framed before the trial court and the trial is on and about four witnesses have been examined, whose cross-examination has been deferred.

16. Incidentally, this is not the first bail application that the accused persons have made. It will be seen from the dates, which we have given above, that barring A-5 Shahul Hameed, who surrendered somewhere in the month of March, 2003, all the other accused persons have been inside the jail for the last one year and seven months. In their first bail application, which was made before the trial court, the Special Judge took the view, interpreting the provisions of Sec.4 9(6) and (7) of POTA, that there was no right even to move the court for the bail till the accused persons complete one year of detention. In the appeals which were filed, the Division Bench of this Court, to which one of us (Sirpurkar, J.) was a party, took the view that it was not as if the application itself could not be made at all within one year of detention but the application, if made, would be decided on the basis of the specific language of Sec.49(7) of POTA where it would be essential for the accused persons to convince the court that they are not prima facie guilty of the offences involved in the matter. The Division Bench held, relying on the proviso to the section, that the section did not in any manner prevent a bail application being entertained. It was further pointed out by the Division Bench that where the accused remains in detention for the offence for more than one year then the rigourous conditions under Sec.49(7) of POTA would not apply while considering the plea of the bail but it would be the ordinary provisions of bail under Sec.49(6) of POTA read with the relevant provisions of the Code of Criminal Procedure, more particularly Sections 437 and 439. Taking this view, the Division Bench remitted back the matter to the trial court where the matter was again argued on merits and the trial court again took the view that the accused persons could not show to the court that they were prima facie not guilty of the offences alleged against them. Obviously, the learned Judge relied on the express language of Sec.49(7) of POTA. It is this order passed by the trial court, which is in challenge in these appeals.

17. Learned senior counsel, M/s. N. Natarajan and K. Chandru appearing on behalf of the appellants have taken us through the

provisions of the Act as also through the charge-sheet. They contended that in the first place, if the whole charge is taken into consideration, the result would be that it is only the meeting dated 13-4-2002 held in Anand Theatre complex, which would be the subject matter of the prosecution. Learned counsel then pointed out that the real import of Sec.21(1)(2) and (3) was that the said speeches should be made with a specific intention to support the terrorist organisation so as to bring about the acts of terrorism or, as the case may be, so as to invite the people to join and support the activities of the terrorist organisation. Learned counsel pointed out that even if all the speeches and more particularly those which have been delivered on 13-4-2002 are taken to be proved, there was nothing in those speeches which spelt out such an intention on the part of the speakers. Learned counsel further urged that the speeches only expressed the unity with the Tamil-speaking brethren in Sri Lanka and there was nothing to suggest that the speakers propagated cession from Union of India so as to bring about threat to the sovereignty of India. Their main plank of the argument was that none of the speeches made in the meeting dated 13-4 -2002 could spell out any of the offences under Sec.21 of POTA. In fact, this was the line of argument even before the trial court.

18. Learned senior counsel, more particularly Shri K. Chandru, also argued the matter threadbare on the basis of the charge-sheet to suggest that barring the books, which probably propagated Tamil unity, no objectionable material has been seized in the nature of explosives, arms, etc. from any of the accused persons. From this, learned counsel urge that at least on the basis of the charge as framed against the accused persons, two inferences emerge. First being that the accused persons were being booked for their speeches made in the meeting dated 13-4-2002 only and the second being, that even if the facts and material are taken into consideration in respect of the some other meetings in respect of which there was no charge, there was nothing to suggest even in those speeches that those lectures were given with an intention to commit an offence under Sec.21 of POTA and with an objective to create terror or to support the acts of terrorism. Shri Chandru urged that in this case, during the pendency of the bail applications, one year period had already elapsed wherein, the accused 1 to 4 were in detention in respect of the offences under POTA. He, therefore, urged that the Court should dispose of in the light of the provisions of bail under the Code of Criminal Procedure read with Sec.4 9(6) and not under Sec.49(7) of POTA.

19. As against this, Shri I. Subramanian, learned Public Prosecutor argued that any over appeal in a meeting expressing support to a terrorist organisation would attract the provisions of Sec.21 of POTA. According to the learned Public Prosecutor voicing a support of sympathy for any terrorist organisation that too publicly would naturally be covered under the wide spectrum of the language of Sec.2 1 POTA. Learned Public Prosecutor further argued that atleast from the language of the section, there was no necessity of the mens rea or guilty intention necessary for commission of these offences. Learned Public Prosecutor very painstakingly translated all the speeches, as one of us (Sirpurkar, J.) is not conversant with Tamil language. Learned Public Prosecutor then brought to the notice the voluminous material available against the accused persons individually as well as

jointly. He points out that the speeches clearly expressed the support to the LTTE which is a banned organisation under the schedule appended to POTA. He further pointed out that though the charge is not specifically in respect of other meetings, the facts relating to those meetings were sought to be proved and were made a part of the charge-sheet with the idea to display as to how the mind of the speakers worked. Learned Public Prosecutor argued that the speeches delivered in the meeting dated 13-4-2002 were nothing but an end-result of the guilty intention on the part of the accused persons and would have to be read not independently but in the light of the fact that such inflammatory speeches were being made or were actually made even prior to the meeting dated 13-4-2002. It is suggested that the accused more particularly A-1 Pala Nedumaran and A-2 Suba Veerapandian have addressed a number of such meetings.

20. While the arguments were on in these appeals, the celebrated judgment of the Supreme Court in PEOPLE'S UNION FOR CIVIL LIBERTIES AND ANOTHER v. UNION OF INDIA was pronounced on 16-12-2003 and the excerpts copy has been made available to us by the learned Public Prosecutor as also by the learned defence counsel. Learned Public Prosecutor, therefore, fairly agrees that it will not now be necessary for us to apply Sec.49(7) of POTA and the rigour therein for examining the question as to whether bail should be granted or not and the bail will have to be granted on the basis of the general considerations for grant of bail which are even displayed in the judgment of the Apex Court. Learned Public Prosecutor says that even if those general considerations are to be relied on yet, it is not possible to grant bail more particularly to the accused 1 to 4, who have completed their one year of detention for the offences under POTA. He points out that there are number of cases pending against A-1 Pala Nedumaran as also few cases are pending against the other accused persons and he further expresses an apprehension that if released on bail, these accused persons, who are wedded to a particular philosophy would not desist from committing further offences and thereby jeopardising the security of India. It is on this backdrop that we have to consider the matter.

21. In view of the authoritative pronouncement of the Apex Court in People's Union for Civil Liberties case, cited supra, in respect of the interpretation of the provisions of Sec.49(6), Sec.49(7) and Sec.21 of POTA, it will not be necessary for us to examine the nature of the offences in the light of the submissions made before us. In so far as the provisions of Sec.21 of POTA is concerned, the Supreme Court holds:

"But the petitioners apprehension regarding the absence of mens rea in these sections and the possibility of consequent misuse needs our elucidation. It is the cardinal principle of criminal jurisprudence that mens rea element is necessary to constitute a crime. It is the general rule that a penal statute presupposes mens rea element. It will be excluded only if the legislature expressly postulate otherwise."

Referring to the KARTAR SINGH v. STATE OF PUNJAB (1994 (3) SCC 569) , the Supreme Court then further goes on to hold:

"Mens rea by necessary implication could be excluded from a statue only where it is absolutely clear that the implementation of the object of the Statue would otherwise be defeated. Here we need to find out whether there are sufficient grounds for inferring that Parliament intended to exclude the

general rule regarding mens rea element."

The Supreme Court then referred to the decisions in STATE OF MAHARASHTRA v. M.H. GEORGE (AIR 1965 SC 722); NATHULAL v. STATE OF M.P. (AIR 1966 SC 43) and INDER SAIN v. STATE OF PUNJAB (1973 (2) SCC 3 72) and further observed:
"Offence under section 3(1) of POTA will be constituted only if it is done with an - 'intent'. If Parliament stipulates that the ' terrorist act' itself has to be committed with the criminal intention, can it be said that a person who 'profess' (as under section 20) or ' invites support' or 'arranges, manages, or assist in arranging or managing a meeting' or 'addresses a meeting' (as under section 21) has committed the offence if he does not have an intention or design to further the activities of any terrorist organisation or the commission of terrorist acts? We are clear that it is not. Therefore, it is obvious that the offence under Section 20 or 21 or 22 needs positive inference that a person has acted with intent of furthering or encouraging terrorist activity or facilitating its commission. In other words, these Sections are limited only to those activities that have the intent of encouraging or furthering or promoting or facilitating the commission of terrorist activities. If these Sections are understood in this way, there cannot be any misuse. With this clarification we uphold the constitutional validity of Sections 20, 21 and 22. "
As regards Sec.49(6) and (7), while deciding its' constitutionality, the Supreme Court first referred to the contention by the Attorney General and observed as follows:
"Learned Attorney General submitted that the provisions regarding bail are not onerous nor do they impose any excessive burden or restriction on the right of the accused"
The Supreme Court then referred to the similar provisions in Sec.37 of the N.D.P.S. Act and Sec.10 of the U.P. Dacoity Affected Areas Act and observed:
"that on a true construction of Section 49(6) and (7) it is not correct to conclude that the accused cannot apply for bail at all for a period of one year; that the right of the accused to apply for bail during the period of one year is not completely taken away; that the stringent provision of bail under Section 49(7) would apply only for the first one year of detention and after its expiry the normal bail provisions under Cr.P.C. would apply; that there is no dispute that the principle laid down by this Court in D.K.Basu V. State of West Bengal, 1997(1)SCC 416, will apply; that in the light of effective safeguards provided in the Act and effective remedies against adverse orders there is no frailty in Section 49."
In the next paragraph, the Apex Court compared the provisions of Sec.49 of POTA and Sec.20 of TADA and also referred to Kartar Singh's case, cited supra, and declared that in spite of the necessity of an extended period of detention, bail could still be obtained for an accused booked under POTA if the Court is satisfied that there are grounds for believing that he is not guilty of committing such offence after hearing the Public Prosecutor. Then the Supreme Court observed:
"It is the general law that before granting the bail the conduct of accused seeking bail has to be taken into account and evaluated in the background of nature of crime said to have committed by him. That evaluation shall be based on the possibility of his likelihood of either tampering with the evidence or committing the offence again or creating threat to the society. Since the

satisfaction of the Court under Section 49(7) has to be arrived based on the particular facts and after considering the abovementioned aspects, we do not think the unreasonableness attributed to Section 49(7) is fair."
The Supreme Court further declared:
"Sections 49(6) and 49(7) of POTA have to be read together and the combined reading of these two sections is to the effect that Public Prosecutor has to be given an opportunity of being heard before releasing the accused on bail and if he opposes the application, the court will have to be satisfied that there are grounds for believing that he is not guilty of having committed such offence. It is by way of exception to Section 49(7) that proviso is added which means that after the expiry of one year after the detention of the accused for offences under POTA, the accused can be released on bail after hearing the Public Prosecutor under ordinary law without applying the rigour of Section 49(7) of POTA. It also means that the accused can approach the court for bail subject to conditions of Sections 49(7) of POTA within a period of one year after the detention for offences under POTA. "

22. With the authoritative pronouncement of law regarding the bail, it would not be necessary for us now to consider the earlier arguments of the learned senior counsel regarding the nature of the offences as we have already made clear. We have only now to see as to whether the accused persons could be released on bail in view of the pendency of the serious charges against them under Sec.21 of POTA.

23. As has already been pointed out, the following table will give the respective charges framed against each of the accused persons.

No. Case No. Name of the Crime No. Offence under Sec. Date of appellant arrest

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1. C.A.749/03 Pala Nedumaran 298/02 DSP 21(1)(a), 21(2) and 1-8-02
Q Branch 21(3) POTA; S.10
CID Chennai Unlawful Activities
(Prevention) Act'67

2. C.A.750/03 Pavanan 298/02 DSP 21(3) of POTA and 3-7-02
Q Branch Sec.124(A), 153(A)
CID Chennai 1(A) of IPC

3. C.A.751/03 Subha Veera- 298/02 DSP 21(2) and 21(3) 16-8-02
pandian Q Branch of POTA
CID Chennai

4. C.A.752/03 Thayappan 298/02 DSP 21(2) and 21(3) 3-1

0-02
Q Branch of POTA

CID Chennai

5. C.A.764/03 Shahul 298/02DSP 21(2) of POTA Surrendered
Hameed Q Branch on 11-3-03
CID Chennai

It is, therefore, clear that in so far as A-1 Pala Nedumaran is concerned, he is said to have invited the support for a terrorist organisation. He has also arranged for a meeting knowing that such meeting is for the purpose of inviting support for the banned terrorist organisation and to further the activities of the said terrorist organisation and lastly he has addressed the meeting for the purpose of encouraging support for a terrorist organisation or to further its activities. This is of course along with Sec.10 of the Unlawful Activities (Prevention) Act, 1967. In so far as A-2 Pavanan is concerned, he is facing only the charge for the offences under Sec.21(3) of POTA and Sec.124(A), 153(A)1(A) of IPC as he only spoke in that meeting. In so far as A-3 Subha Veerapandian is concerned, he is also facing the charge under Sec.21(2) and 21(3) of POTA identically with A-4 Thayappan, while A-5 Shahul Hameed is facing the charge only under Sec.21(2) of POTA because admittedly he did not speak in the meeting dated 13-4-2002. A-2 Pavanan is also involved in another case (Crime No.201 of 2002, Kavanthapadi Police Station) and facing prosecution under Sec.21(3) POTA and 124(A), 153(A)(1)(a) of IPC for a speech which he had made in a meeting held on 24-6-2002 within Kavanthapadi Police limits but, we are not concerned with that matter in these appeals and restricting ourselves only to the five appeals.

24. A glance at the charges, which have been framed by the learned Special Judge, would suggest that the said charges are predominantly only for the meeting dated 13-4-2002 of which the necessary particulars have been given in the charge. The charges are rather peculiarly worded. We shall only take the charges framed against A-1 Pala Nedumaran, which are as follows:
"The first charge against accused number 1, Mr. Pala Nedumaran, S/o Palaniappan
You are the President of Tamilar Desiya Iyakkam.
Tamilar Desiya Iyakkam is an orghanisation which supports, encourages and stands by the actions of Liberation Tigers of Tamil Eelam and its leader Prabhakaran.
Liberation Tigers of Tamil Eelam is a Terrorist Organisation as per Entry 21 of the Schedule read with Section18(1)(A) of Prevention of Terrorism Act 2002.
Knowing that the Liberation Tigers of Tamil Eelam has been declared as a terrorist organisation under the Prevention of Terrorism Act 200 2 and that rendering support and encouragement to that organisation is against law, you have been continuously supporting and encouraging the activities of Liberation Tigers of Tamil Eelam and its leader Prabhakaran, through your open acts - talks -- individually and through the activities of your Tamilar Desiya Iyakkam.
Knowing that rendering support and encouragement to Liberation Tigers of Tamil Eelam and its leader Prabhakaran is against law,
Together with the general secretary of Tamilar Desiya Iyakkam Subha

Veerapandian and the ardent supporters of that organisations and self motivated workers, Paavanan @ Pudukottai R. Paavaanan, Thayappan, Shahul Hameed, to give support and encouragement to the Terrorist Organisation named Liberation Tigers of Tamil Eelam to arrange a meeting under the title 'World renowned Interview of the Tiger's Leader Prabhakaran - an appraisal'.

In the first week of April 2002, in the office of Tamil Muzakkam publications situated at No.29 Dr. Gurusamy Road, Chetpet, you entrusted Shahul Hameed with the responsibility of organizing the meeting, informed the details regarding that, held discussions and personally rendered financial assistance and gave advice and opinion as to printing of notices and posters for the indoor meeting and continuously went to Tamil Muzakkam office for organising the meeting and related work and thus you have worked along with him for arranging and managing the meeting.

On 13-4-2002 from 6:00 PM to 9.45 PM, in the premises of Anand Theatre, within the limits of Chennai, Thousand Lights Police Station, you along with Subha Veerapandian, Paavaanan @ Pudukottai Paavaanan, Thayappan, under the title 'World renowned Interview of the Tiger's Leader Prabhakaran - an appraisal', on behalf of Tamil Muzakkam, each of you have organised, conducted and spoken excluding Shahul Hameed in encouragement and support of Liberation Tigers of Tamil Eelam and its leader Prabhakaran, before gathered public, despite knowing that the Liberation Tigers of Tamil Eelam has been declared as a Terrorist organisation under law, and thus each one of you has committed offence.

Thus you have committed offence under Section 21(2)(a) of the Prevention of Terrorism Act 2002, by organising, helping and conducting that meeting in encouraging the activities of a Terrorist Organisation by name Liberation Tigers of Tamil Eelam. Thus for that offence you are liable to be tried in this court for an offence punishable under section 21(4).

The second charge against accused number 1, Mr. Pala Nedumaran, S.o Palaniappan

You are the President of Tamilar Desiya Iyakkam.

Tamilar Desiya Iyakkam is an orghanisation which supports, encourages and stands by the actions of Liberation Tigers of Tamil Eelam and its leader Prabhakaran.

Liberation Tigers of Tamil Eelam is a Terrorist Organisation as per Entry 21 of the Schedule read with Section18(1)(A) of Prevention of Terrorism Act 2002.

Knowing that the Liberation Tigers of Tamil Eelam has been declared as a terrorist organisation under the Prevention of Terrorism Act 200 2 and that rendering support and encouragement to that organisation is against law, you have been continuously supporting and encouraging the activities of Liberation Tigers of Tamil Eelam and its leader Prabhakaran, through your open acts - talks -- individually and through the activities of your Tamilar Desiya Iyakkam.

You have spoken in support and encouragement of Liberation Tigers of Tamil Eelam and its leader Prabhakaran even before the second week of April 2002, in public meetings conducted at Swami Malai, Dindugal Ottanchatiram, Pudukottai, Tiruchy, Thirunelveli, New Washermenpet and Tambaram.

Further, rendering your support and encouragement for the activities of Liberation Tigers of Tamil Eelam and its leader Prabhakaran, in an indoor meeting under the title 'World Renowned Interview of the Tiger's Leader Prabhakaran - an appraisal', on behalf of Tamil Muzhakkam, held in the

premises of Anand Theatre, on 13-4-2002 from 6.00 PM to 9.45 PM, within the limits of Chennai, Thousand Lights Police Station, before gathered public - Unmindful that the Liberation Tigers of Tamil Eelam has been declared as a terrorist organisation under the Prevention of Terrorism Act 20 02, and incontinuance of support and encouragement to the activities of Liberation Tigers of Tamil Eelam and its leader Prabhakaran, you have spoken the following:

"We are supporting Liberation Tigers. We are continuously raising our voice in Tamil Nadu against the Sinhala racial atrocities committed against our brothers and sisters. We need not be scared of anybody. Without understanding what is happening in the country, if anybody thinks that they can suppress the movement through giving such small, small troubles, respected people, you do not know what is movement. Don't you know the outcome of suppressing the right to talk, the right to write, the right to express? It will lead to a bad way. Though you don't help the Srilankan Tamils, don't cause trouble to them. Prabhakaran is only 47 years old. But, as a seasoned statesman, he says that it is necessary to renew the friendship with India. We know that, tomorrow, those who now portray Prabhakaran as a terrorist, well set us all aside and run forward to garland him first, when Tamil Eelam blooms, and Prabhakaran as Leader, lands on this Tamil Nadu soil. If independent Tamil Eelam forms in Eelam, it will be a friendly nation to India. Liberation Tigers can face the American army or even its' father's army. We should stand together, in support of Prabhakaran. It is our duty. Prabhakaran stands as a leader who emerges only once in thousand years. Don't forget, that under his leadership, the fight is not only for the freedom of Eelam Tamils, but also to bring brightness in the life of the Tamils all over the world. It is our lifetime duty to stand in support of this fight, overcoming any oppression. With that I end my speech."

You further spoke justifying the activities of the Terrorist Organisation named Liberation Tigers of Tamil Eelam and its leader Prabhakaran, before the public and thus committed an offence punishable under section 21(3) of Prevention of Terrorism Act 2002.

Hence for the offence under section 21(3) of Prevention of Terrorism Act 2002 you are liable to be tried in this Court and punished under Section 21(4).

The third charge against accused number 1, Mr. Pala Nedumaran, S/o Palaniappan

Liberation Tigers of Tamil Eelam is a Terrorist Organisation as per Entry 21 of the Schedule read with Section18(1)(A) of Prevention of Terrorism Act 2002.

Knowing that the Liberation Tigers of Tamil Eelam has been declared as a terrorist organisation under the Prevention of Terrorism Act 200 2 and that rendering support and encouragement to that organisation is against law, you have been continuously supporting and encouraging the activities of Liberation Tigers of Tamil Eelam and its leader Prabhakaran, through your open acts - talks -- individually and through the activities of your Tamilar Desiya Iyakkam.

On continuously rendering your support and encouragement for the activities of Liberation Tigers of Tamil Eelam and its leader Prabhakaran.

In an indoor meeting under the title 'World Renowned Interview of the Tiger's Leader Prabhakaran - an appraisal' on behalf of Tamil Muzakkam, held in the premises of Anand Theatre, on 13-4-2002 from 6:00 PM to 9.45 PM, within the limits of Chennai, Thousand Lights Police Station, before gathered public-

In your speech, you have spoken justifying the activities of the Terrorist Organisation named Liberation Tigers of Tamil Eelam and its leader Prabhakaran, before public, and in that speech you have asked the public to support the Terrorist Organisation named Liberation Tigers of Tamil Eelam - and thus have spoken inviting support for that Terrorist organisation. Thus, for the offence under Section 21(1)(a) of Prevention of Terrorism Act 2002, you have committed an offence to be tried in this court under Sec.21(4)."
Similar is the situation in respect of the other accused persons excepting A-5 Shahul Hameed who only faces the charge of arranging the meeting under Sec.21(2) POTA.

25. We have scanned the whole charge-sheet with the help of the learned counsel and we have deliberately quoted the police case. Needless to mention that along with the charge-sheet a list of about 115 witnesses has been given as also the documents relied on by the prosecution. When we see the memo of evidence, it suggests that the first 31 witnesses are speaking only about the meeting held on 13-4-2002, witness Nos.32 to 50 speak about the search and seizure in which the books and other materials were seized from the residence or, as the case may be, from the office of 'Tamilar Desiya Iyakkam'. Again, witness Nos.54, 56, 57 and 62 are to speak about the meeting dated 13 -4-20 02. There are few other witnesses like witness Nos.58, 59, 60, 61, 6

3, 64, 65, 66 who are to speak about the arrangement made for the meeting like advertisement, issue of pamphlets, etc. Even the witnesses like P.Ws 73 and 74 are also to speak about the meeting dated 13-4-2 002 . There are undoubtedly few other witnesses like P.Ws 70, 71, 72

who are to speak about covering the meeting addressed by A-1 Pala Nedumaran because they are the short-hand writers. Therefore, there is material on record to suggest that the prosecution relies on the speeches made even in the other meetings though the charge specifically speaks about the offence having been committed in the meeting held on 13-4-2002.

26. It is very seriously argued, therefore, that A-1 Pala Nedumaran is a leader, having formed an association, which has already been banned and the accused persons are his staunch supporters. Learned counsel for the appellant points out that barring the speeches, there is no overt act committed by the accused persons. He points out that the whole prosecution revolves around the speeches, which are made in the public meetings. For the sake of convenience, it will be better to take into consideration the dates on which these public meetings were held. We have already extracted that there were six such public meetings in which accused 1 to 4 have participated and delivered speeches.

27. It will be seen that in so far as A-1 Pala Nedumaran is concerned, the dates of those meetings are 24-8-2001, 26-11-2001, 10-2-2002, 31-3-2002, 1-5-2002, 19-5-2002, 13-6-2002 (at a marriage function) and 15-6-2002. So also similar charges are made regarding in all about five meetings having been made by A-3 Pavanan. We have scanned the whole

charge-sheet very carefully only to find that the complaint is only against the speeches made by the accused persons. There is no other overt act attributed to any of the accused. This is, of course, apart from the so-called banned materials books, pamphlets, etc. seized from the office of the Tamilar Desiya Iyakkam. It is an admitted case that none of those is proscribed in the State of Tamil Nadu or anywhere. Learned Public Prosecutor very fairly admits this position. Therefore, the whole conspectus of the criminal activity on the part of the accused is, atleast in respect of accused 1 to 4, would be restricted to the speeches made by them. Learned Public Prosecutor had to suggest that there has been material on record to suggest that at least some of the accused persons have had nexus with the LTTE. There is nothing in the charge, however, on account of that nexus. Even if it is granted that there is some nexus, unless that nexus has resulted or is intended to result in a terrorist activity, it would be difficult to refuse bail to the accused persons. If the whole alleged criminal activity centres around only the speeches made in public meetings then, it will be for us to examine as to whether those speeches or any one of them is so inflammatory or so potent so as to result into a terrorist activity. We will not go into the merits of the matter at this stage for the simple reason that we are aware of our own limitations that the trial is still to take place and the case is in progress. We do not also wish to express anything as to whether those speeches per se could be spelt out any offence under Sec.21 of POTA. However, in the absence of any terrorist activity attributed to any of the accused persons, except delivering some speeches, it will be difficult to order the accused persons to remain behind the bars for more than seventeen months. It is an admitted position that the accused are incarcerated for the last seventeen months. This is, of course, with an exception to accused No.5 Shahul Hameed, whose case we shall separately deal with. Again what strikes us is that in spite of the long span of more than one year before 13-4-2002, during which the accused persons have been delivering these speeches, there has not been any action against them except for the cases which we have pointed out above. However, when we see the chart of the pending cases against the accused persons, what strikes us is rather disturbing. A-1 Pala Nedumaran is shown to be facing seven cases, including the present case. Out of the six cases, one is registered in the year 1992 vide CrimeNo.481 of 1992 under Secs.143, 506 IPC read with 41 of the City Police Act and Sec.7(1)(a) of the Criminal Law (Amendment) Act. Learned Public Prosecutor is not in a position to state as to what has happened to this case, which is pending for the last ten years. The second prosecution is vide P.S. Crime No.1988 of 1993 under Sec.10 of the Unlawful Activities (Prevention) Act on account of the seizure of 298 copies of 'Kaviayanayagan Kittu', a book on the LTTE leader by name Kittu, allegedly written by Pala Nedumaran himself. Learned Public Prosecutor is not in a position to state whether the accused was arrested in this case. He points out that it was only in the year 2003, when the accused person was in the custody, he was produced before the Magistrate under a Prisoner on Transfer warrant. Therefore, right from the year 1993 till 2003, the said accused never came to be arrested. Third case is vide Crime No.5 of 1997 for delivering an objectionable speech at a public meeting on 28-12-19 97. The learned Public Prosecutor is candid enough to admit that he was never arrested in this case and the matter is not even presented to the court. Fourth case is vide P.S. Crime No.629 of 1999 under Sec.10 of the Unlawful

Activities (Prevention) Act for his address in a public meeting on 16-7-1999. Again, for which he was never arrested even till today. The fifth case is again for delivering an objectionable at Madurai on 2-10-2000 for which also, he has not been arrested. Last case is vide Crime No.296 of 2000 again for the similar offences on account of seizure of Tamil publications entitled ' Tamil Eelam Sivakkirathu' compiled by him. Again, in this case also, the appellant has not even been arrested. All these cases are shown to be pending under investigation. If this is the state of affairs in respect of the main accused, A-1 Pala Nedumaran, then, it is less said the better in respect of the other accused persons also. One case, which has been shown against A-2 Subha Veerapandian, has resulted in acquittal. In so far as A-3 Pavanan is concerned, he also faces three other cases, which are registered in the years 1996 and 200. In one of them, he has never been arrested while out of the two other cases, one is for smuggling medicines for LTTE and the second is for burning the copies of the resolution passed by the State Government. The so-called smuggling case has not seen the light of the day though it is pending for more than seven years. This is by far the whole record against the accused persons. From these also, it is difficult to suggest that the accused persons have in the past engaged themselves in the terrorist activities so as to be refused the advantage of bail as has been held by the Supreme Court in PUCL case, cited supra. Again, the whole activity appears to be centring around giving the speeches. However, not a single accused uptill now has been found in possession of any explosives or it cannot even be said that there is any other terrorist activity conducted by the banned organisation in which these accused persons or any one of them are even distantly related. Therefore, in so far as their previous behaviour is

concerned, it cannot be said that atleast the four accused persons, i.e. accused 1 to 4 have committed any such activity, which would disentitle them to claim bail before us.

28. In so far as the character is concerned, it is an admitted position that A-1 Pala Nedumaran has been espousing the cause of Tamil unity. He is a much travelled man and apart from these activities, has not been either engaged or convicted for any other nefarious criminal offences. He has also authored a number of books in Tamil and has the educational qualification of M.A., M.Phil. He was also an elected member of the Tamil State Legislature and was also General Secretary of Tamil Nadu Congress Committee. In so far as A-2 Pavanan is concerned, he is also M.A., M.Phil. and a retired Professor in Tamil. He has not been actively involved in any nefarious criminal activity in strict sense of the term. A-3 Pavanan is also a degree-holder and is a professional public-speaker. A-4 Thayappan is a practising Dentist in the city of Chennai. Therefore, it cannot be said that even these four accused persons come from any criminal background. They have not been engaged in any of the criminal activities. They, undoubtedly, appear to be wedded to a particular philosophy but, it cannot be said that they have a shadowy past so as to be deprived of the bail.

29. Learned Public Prosecutor, however, expressed that if these accused persons are let out on bail, they are likely to repeat the offences on account of their ideology and philosophy. That by itself cannot

be pressed into service as the accused persons could be bound by some conditions. Therefore, even the possibility of their committing the offence cannot by itself come in the way of their getting bail.

30. It cannot be forgotten that the offence under Sec.21 POTA is punishable with imprisonment for a term not exceeding ten years or with fine or with both. Therefore, this is not an offence where a jail sentence is a must. On the otherhand, we have taken into consideration, the factor that all the accused persons, i.e. A-1 to A-4, have been in detention for the last seventeen months. Lastly, almost by way of a desperate argument, learned Public Prosecutor argued that we should not consider these applications but remit the matter to the trial court for being considered. We would have ordinarily taken that course but for the fact that the accused persons are incarcerated for more than seventeen months now. It is for this reason that, with the help of the learned Public Prosecutor as well as the learned senior counsel appearing for the appellants, we went through the chargesheets ourselves and examined the contentions raised by the prosecution therein. It is during the pendency of the appeals that the period of one year expired. It is for this reason that we have considered the appeals as the advantage of the elapse of one year would always be available to the accused since this happens to be continuation of the proceedings, that is being an appeal. We are, therefore, of the opinion that accused 1 to 4 deserve to be enlarged on bail. We shall, however, pass the operative part of the order at the end of the judgment.

31. This takes us to the case of A-5 Shahul Hameed. In the first place, he is running a publication called 'Tamil Muzakkam'. He is the one who arranged for the meeting dated 13-4-2002. It is the case of the prosecution that he was absconding and was arrested on 11-3-20 03 whereas the defence asserts that he himself came and surrendered himself. Nothing would depend upon whether he himself surrendered or he was arrested because admittedly he has not completed one year of detention uptill now. Therefore, it would be for him to show that he did not arrange a meeting or he did not assist in any manner for convening the said meeting. However, learned senior counsel does not wish to proceed with the appeal and seeks to withdraw the same. Hence, the appeal filed by A-5 Shahul Hameed, i.e. Crl.A. No.764 of 2003, is dismissed as withdrawn.

32. In so far as the appellants in Criminal Appeal Nos.749 to 752

of 2003 are concerned, they are enlarged on bail on the following conditions:
1. They shall be released on bail on their executing a bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each, with two sureties each for the like sum, to the satisfaction of the Trial Court;
2. They shall not address any public meeting during the pendency of the trial.
3. If they hold passport, they shall deposit the same with the trial court;
4. They shall also be available for interrogation and shall not

abscond. For that purpose, they shall also desist from tampering with the witnesses or, at any rate, influence the witnesses.
5. They shall not in any manner keep any connection with the banned organisations like LTTE during the pendency of the trial.
6. They shall also attend all the hearings before the trial court regularly without impeding the progress of the trial.
7. A-1 Pala Neduraman, A-3 Subha Veerapandian and A-4 Thayappan shall generally limit their residence to the City of Chennai while A-2 Pavanan shall limit his residence to the limits of Pudukottai except on the dates when he is required to attend the proceedings before the trial court. Before leaving the jurisdictional limits, within which they are expected to stay, they shall inform the Investigating Officer.
8. Lastly, they shall desist from giving any interview to any media - audio and video - or by issuing any press statement, etc.

33. In short, with the above conditions, we allow Crl.Appeal Nos.74

9, 750, 751 and 752 filed by A-1 Pala Nedumaran, A-2 Pavanan, A-3 Subha Veerapandian and A-4 Thayappan respectively and dismiss the appeal, Crl.A. No.764 of 2003 filed by A-5 Shahul Hameed.

Criminal Appeal No.766 of 2003:
The charge against the appellant in this appeal is for the offences under Sec.21(2) and (3) of POTA and Secs.124A and 153A IPC for the alleged objectionable speech made by the appellant in a public meeting held on 24-6-2002 at about 8.15 PM at Nanjappa Chettiar Thirumana Mandapam, Kavandapadi, Erode District. In this case also, the situation is no different and it is only for the speech that the appellant has given that he is being tried for the offences under POTA.

2. We have already given our reasons in the connected appeals. Those reasons would apply for grant of bail to the appellant in this case also. With this, we grant him bail on the same conditions as to the accused/appellants 1 to 4 in Appeal Nos.749 to 752 of 2003. In that view, this appeal is allowed.

Criminal Appeal No.765 of 2003
This appeal has been filed by one Paranthaman, who is being tried for the offences under Sec.21(1)(a) and Sec.21(3) of POTA read with Sec.13(1)(b) of Unlawful Activities (Prevention) Act, 1967 as also Sec.4(b)(1) and Sec.5(a) of the Explosives Substances Act 1908 and Sec.17 (1) of the Criminal Law Amendment Act 1908.

2. Learned counsel for the appellant in this appeal, does not press the appeal and seeks to withdraw the appeal. Learned Public Prosecutor has no objection to this withdrawal. The appeal is allowed to be withdrawn.

34. In the result, Criminal Appeal Nos.749 to 752 and 766 of 2003 are allowed. Criminal Appeal No.764 and 765 of 2003 are dismissed as withdrawn.

Jai

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